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The Special Counsel

July 7, 2005

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

Re: OSC File No. HA-05-0168

Dear Representative Conyers:

I am writing in response to your letter to the U.S. Office of Special Counsel (OSC) regarding your request that we investigate a potential Hatch Act violation by Dr. Condoleezza Rice when she delivered various speeches during 2004. We have completed our investigation of this matter. The matter was reviewed and analyzed by career staff of the Hatch Act Unit within days of receipt of your request in late October 2004. Career staff continued to analyze and process this case from that time. Any information to the contrary is incorrect. The October 2004 review and analysis resulted in a recommendation to the Special Counsel that Dr. Rice's activities did not appear to have violated the Hatch Act. After a complete investigation of this matter, a final determination was made, which was consistent with the preliminary review. I am enclosing a copy of the determination for your review. Thank you for contacting us about this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott J. Bloch".

Scott J. Bloch
Special Counsel

Enclosures



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 201
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Ranking Member
Committee on the Judiciary
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2138 Rayburn House Office Building
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Re: OSC File No. HA-05-0168

Dear Representative Conyers:

This letter is in response to your request that we investigate a potential Hatch Act violation by Dr. Condoleezza Rice when she delivered various speeches during 2004. Specifically, it was alleged that while Dr. Rice was employed as the National Security Advisor she gave approximately nine campaign speeches in battleground states during the final eight weeks of the 2004 Presidential election. We have reviewed those speeches and the context in which they were delivered. As explained below, we have concluded that during these events Dr. Rice did not engage in prohibited political activity in violation of the Hatch Act.

As the Assistant to the President for National Security Affairs (commonly referred to as the National Security Advisor), Dr. Rice was an employee of the White House Office in the Executive Office of the President, and therefore, she was covered by the Hatch Act, which places certain political activity restrictions on federal employees. See 5 U.S.C. §§7323(a)(1)-(4), 7324. While the Act would have permitted Dr. Rice to actively participate in partisan political management and partisan political campaigns, it would have prohibited her from, among other things, using her official authority or influence for the purpose of interfering with or affecting the result of an election. 5 U.S.C. § 7323(a)(1). Thus, for example, the Act would have prohibited Dr. Rice, in her official capacity, from campaigning or making campaign speeches on behalf of a candidate in a partisan election. The Act, however, would not have prohibited Dr. Rice, like Senate-confirmed Presidential appointees, from engaging in such activities as long as she was not acting in her official capacity.

We have determined that Dr. Rice's speeches were not campaign speeches. Specifically, our review found that her travel to these events was designated as official, that the engagements where she delivered the speeches in question were not campaign events and that her speeches did not advocate for President George W. Bush as a candidate for reelection.

The Hatch Act did not prohibit Dr. Rice from speaking in her official capacity at nonpartisan events like the ones she attended during the relevant time period (e.g., World Affairs Council of Seattle, Anniversary Dinner of Yeshiva Beth Yehudah, etc.) because she was speaking about official matters and did not campaign on behalf of the President. Moreover, the fact that her appearance at these events during the weeks prior to the election may incidentally have had a beneficial effect on President Bush's reelection efforts would not transform an otherwise non-political event or speech into a political one.

Lastly, we note that in your submission to our office you identified Dr. Rice as an employee of the National Security Council, and thus, further restricted by the Hatch Act from engaging in political campaigning under 5 U.S.C. § 7323(b)(2). Although Dr. Rice at the time of the activities addressed in this matter was a regular attendee of the National Security Council, she was not an employee of the National Security Council. As explained earlier, she was an employee of the White House Office. As such, the further restrictions of 5 U.S.C. § 7323(b)(2) were not applicable to Dr. Rice. Nevertheless, even assuming she was further restricted pursuant to that provision, her speaking engagements would not have violated the Hatch Act because they did not involve campaign activities, as discussed above.

Based upon the preceding, we do not believe that Dr. Rice's participation in the above-referenced activities violated the Hatch Act. Therefore, we are closing our file in this matter without further action. Please call me at 202-254-3674, if you have any questions regarding this matter.

Sincerely,



Ana Galindo-Marrone
Chief, Hatch Act Unit